

SECOND REGULAR SESSION

SENATE BILL NO. 1082

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Read 1st time February 20, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5158S.01I

AN ACT

To repeal section 287.140, RSMo, and to enact in lieu thereof one new section relating to workers' compensation fees, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 287.140, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 287.140, to read as follows:

287.140. 1. In addition to all other compensation paid to the employee
2 under this section, the employee shall receive and the employer shall provide such
3 medical, surgical, chiropractic, and hospital treatment, including nursing,
4 custodial, ambulance and medicines, as may reasonably be required after the
5 injury or disability, to cure and relieve from the effects of the injury. If the
6 employee desires, he shall have the right to select his own physician, surgeon, or
7 other such requirement at his own expense. Where the requirements are
8 furnished by a public hospital or other institution, payment therefor shall be
9 made to the proper authorities. Regardless of whether the health care provider
10 is selected by the employer or is selected by the employee at the employee's
11 expense, the health care provider shall have the affirmative duty to communicate
12 fully with the employee regarding the nature of the employee's injury and
13 recommended treatment exclusive of any evaluation for a permanent disability
14 rating. Failure to perform such duty to communicate shall constitute a
15 disciplinary violation by the provider subject to the provisions of chapter 620,
16 RSMo. When an employee is required to submit to medical examinations or
17 necessary medical treatment at a place outside of the local or metropolitan area
18 from the employee's principal place of employment, the employer or its insurer
19 shall advance or reimburse the employee for all necessary and reasonable
20 expenses; except that an injured employee who resides outside the state of
21 Missouri and who is employed by an employer located in Missouri shall have the
22 option of selecting the location of services provided in this section either at a

23 location within one hundred miles of the injured employee's residence, place of
24 injury or place of hire by the employer. The choice of provider within the location
25 selected shall continue to be made by the employer. In case of a medical
26 examination if a dispute arises as to what expenses shall be paid by the employer,
27 the matter shall be presented to the legal advisor, the administrative law judge
28 or the commission, who shall set the sum to be paid and same shall be paid by
29 the employer prior to the medical examination. In no event, however, shall the
30 employer or its insurer be required to pay transportation costs for a greater
31 distance than two hundred fifty miles each way from place of treatment.

32 2. If it be shown to the division or the commission that the requirements
33 are being furnished in such manner that there is reasonable ground for believing
34 that the life, health, or recovery of the employee is endangered thereby, the
35 division or the commission may order a change in the physician, surgeon, hospital
36 or other requirement.

37 3. All fees and charges under this chapter shall be fair and reasonable,
38 shall be subject to regulation by the division or the commission, or the board of
39 rehabilitation in rehabilitation cases. A health care provider shall not charge a
40 fee for treatment and care which is governed by the provisions of this chapter
41 greater than the usual and customary fee the provider receives for the same
42 treatment or service when the payor for such treatment or service is a private
43 individual or a private health insurance carrier. **Determination of usual and**
44 **customary fees shall be based on comparable volume based discount**
45 **contracts of the health care provider delivering the treatment and**
46 **care.** The division or the commission, or the board of rehabilitation in
47 rehabilitation cases, shall also have jurisdiction to hear and determine all
48 disputes as to such charges. **A medical fee dispute application shall be filed**
49 **with the division or the commission, or the board of rehabilitation in**
50 **rehabilitation cases, within two years from the date of the rendering of**
51 **the most recent medical service for which payment or reimbursement is**
52 **sought.** A health care provider is bound by the determination upon the
53 reasonableness of health care bills.

54 4. The division shall, by regulation, establish methods to resolve disputes
55 concerning the reasonableness of medical charges, services, or aids. This
56 regulation shall govern resolution of disputes between employers and medical
57 providers over fees charged, whether or not paid, and shall be in lieu of any other
58 administrative procedure under this chapter. The employee shall not be a party
59 to a dispute over medical charges, nor shall the employee's recovery in any way

60 be jeopardized because of such dispute.

61 5. No compensation shall be payable for the death or disability of an
62 employee, if and insofar as the death or disability may be caused, continued or
63 aggravated by any unreasonable refusal to submit to any medical or surgical
64 treatment or operation, the risk of which is, in the opinion of the division or the
65 commission, inconsiderable in view of the seriousness of the injury. If the
66 employee dies as a result of an operation made necessary by the injury, the death
67 shall be deemed to be caused by the injury.

68 6. The testimony of any physician or chiropractic physician who treated
69 the employee shall be admissible in evidence in any proceedings for compensation
70 under this chapter, subject to all of the provisions of section 287.210.

71 7. Every hospital or other person furnishing the employee with medical
72 aid shall permit its record to be copied by and shall furnish full information to the
73 division or the commission, the employer, the employee or his dependents and any
74 other party to any proceedings for compensation under this chapter, and certified
75 copies of the records shall be admissible in evidence in any such proceedings.

76 8. The employer may be required by the division or the commission to
77 furnish an injured employee with artificial legs, arms, hands, surgical orthopedic
78 joints, or eyes, or braces, as needed, for life whenever the division or the
79 commission shall find that the injured employee may be partially or wholly
80 relieved of the effects of a permanent injury by the use thereof. The director of
81 the division shall establish a procedure whereby a claim for compensation may
82 be reactivated after settlement of such claim is completed. The claim shall be
83 reactivated only after the claimant can show good cause for the reactivation of
84 this claim and the claim shall be made only for the payment of medical
85 procedures involving life-threatening surgical procedures or if the claimant
86 requires the use of a new, or the modification, alteration or exchange of an
87 existing, prosthetic device. For the purpose of this subsection, "life threatening"
88 shall mean a situation or condition which, if not treated immediately, will likely
89 result in the death of the injured worker.

90 9. Nothing in this chapter shall prevent an employee being provided
91 treatment for his injuries by prayer or spiritual means if the employer does not
92 object to the treatment.

93 10. The employer shall have the right to select the licensed treating
94 physician, surgeon, chiropractic physician, or other health care provider; provided,
95 however, that such physicians, surgeons or other health care providers shall offer
96 only those services authorized within the scope of their licenses. For the purpose

97 of this subsection, subsection 2 of section 287.030 shall not apply.

98 11. Any physician or other health care provider who orders, directs or
99 refers a patient for treatment, testing, therapy or rehabilitation at any institution
100 or facility shall, at or prior to the time of the referral, disclose in writing if such
101 health care provider, any of his partners or his employer has a financial interest
102 in the institution or facility to which the patient is being referred, to the
103 following:

104 (1) The patient;

105 (2) The employer of the patient with workers' compensation liability for
106 the injury or disease being treated;

107 (3) The workers' compensation insurer of such employer; and

108 (4) The workers' compensation adjusting company for such insurer.

109 12. Violation of subsection 11 of this section is a class A misdemeanor.

110 13. (1) No hospital, physician or other health care provider, other than a
111 hospital, physician or health care provider selected by the employee at his own
112 expense pursuant to subsection 1 of this section, shall bill or attempt to collect
113 any fee or any portion of a fee for services rendered to an employee due to a
114 work-related injury or report to any credit reporting agency any failure of the
115 employee to make such payment, when an injury covered by this chapter has
116 occurred and such hospital, physician or health care provider has received actual
117 notice given in writing by the employee, the employer or the employer's
118 insurer. Actual notice shall be deemed received by the hospital, physician or
119 health care provider five days after mailing by certified mail by the employer or
120 insurer to the hospital, physician or health care provider.

121 (2) The notice shall include:

122 (a) The name of the employer;

123 (b) The name of the insurer, if known;

124 (c) The name of the employee receiving the services;

125 (d) The general nature of the injury, if known; and

126 (e) Where a claim has been filed, the claim number, if known.

127 (3) When an injury is found to be noncompensable under this chapter, the
128 hospital, physician or other health care provider shall be entitled to pursue the
129 employee for any unpaid portion of the fee or other charges for authorized
130 services provided to the employee. Any applicable statute of limitations for an
131 action for such fees or other charges shall be tolled from the time notice is given
132 to the division by a hospital, physician or other health care provider pursuant to
133 subdivision (6) of this subsection, until a determination of noncompensability in

134 regard to the injury which is the basis of such services is made, or in the event
135 there is an appeal to the labor and industrial relations commission, until a
136 decision is rendered by that commission.

137 (4) If a hospital, physician or other health care provider or a debt collector
138 on behalf of such hospital, physician or other health care provider pursues any
139 action to collect from an employee after such notice is properly given, the
140 employee shall have a cause of action against the hospital, physician or other
141 health care provider for actual damages sustained plus up to one thousand dollars
142 in additional damages, costs and reasonable attorney's fees.

143 (5) If an employer or insurer fails to make payment for authorized services
144 provided to the employee by a hospital, physician or other health care provider
145 pursuant to this chapter, the hospital, physician or other health care provider
146 may proceed pursuant to subsection 4 of this section with a dispute against the
147 employer or insurer for any fees or other charges for services provided.

148 (6) A hospital, physician or other health care provider whose services have
149 been authorized in advance by the employer or insurer may give notice to the
150 division of any claim for fees or other charges for services provided for a
151 work-related injury that is covered by this chapter, with copies of the notice to
152 the employee, employer and the employer's insurer. Where such notice has been
153 filed, the administrative law judge may order direct payment from the proceeds
154 of any settlement or award to the hospital, physician or other health care provider
155 for such fees as are determined by the division. The notice shall be on a form
156 prescribed by the division.

157 14. The employer may allow or require an employee to use any of the
158 employee's accumulated paid leave, personal leave, or medical or sick leave to
159 attend to medical treatment, physical rehabilitation, or medical evaluations
160 during work time. The intent of this subsection is to specifically supercede and
161 abrogate any case law that contradicts the express language of this section.

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